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LOK SABHA

The following Report of the Joint Committee on the Bill to prohibit the giving or taking of dowry was presented to Lok Sabha on the 19th November, 1959:—

Composition of the Joint Committee

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Shri J. M. Mohamed Imam
3. Dr. K. Atchamamba
4. Shri Nibaran Chandra Laskar
5. Shri Onkar Lal
6. Shrimati Jayaben Vajubhai Shah
7. Shri Balkrishna Wasnik
8. Shri Ram Krishan Gupta
9. Shri Mahendra Nath Singh
10. Shrimati Satyabhama Devi
11. Shri Sinhasan Singh
12. Shrimati Uma Nehru
13. Shri J. B. S. Bist
14. Shri Hifzur Rahman
15. Shrimati Renuka Ray
16. Shri Tekur Subrahmanyam

17. Dr. M. V. Gangadhara Siva
18. Shri V. Eacharan
19. Shrimati Sahodra Bai Rai
20. Pandit Babu Lal Tiwari
21. Shri S. R. Arumugham
22. Shri Radha Charan Sharma
23. Shri R. M. Hajarnavis
24. Shri P. T. Punnoose
25. Shri Subiman Ghose
26. Shri Uttamrao L. Patil
27. Shri Braj Raj Singh
28. Shri Ignace Beck
29. Shri Khushwaqt Rai
30. Shri Asoke K. Sen.

Rajya Sabha

31. Pandit S. S. N. Tankha
32. Shrimati T. Nallamuthu Ramamurti
33. Shri Akhtar Husain
34. Giani Zail Singh
35. Shri Sheel Bhadra Yajee
36. Shrimati Yashoda Reddy
37. Shri Bhagirathi Mahapatra
38. Shri Jethalal Harikrishna Joshi
39. Shrimati Rukmani Bai
40. Shri Jugal Kishore
41. Shri N. R. Malkani
42. Shri Abdur Rezzak Khan
43. Shri Devendra Prasad Singh
44. Shri Abhimanyu Rath
45. Shrimati Jahanara Jaipal Singh.

DRAFTSMEN

Shri G. R. Rajagopaul, *Secretary, Ministry of Law.*

Shri N. Swaminathan, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri A. L. Rai—*Deputy Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the *Bill to prohibit the giving or taking of dowry was referred, having been authorised to submit the report on their behalf, present this their report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 24th April, 1959. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Shri Asoke K. Sen on the 5th August, 1959 and was discussed in the Lok Sabha on the 5th and 6th August 1959 and adopted on the 6th August, 1959.

3. The Rajya Sabha discussed the motion on the 21st and 31st August and the 1st September, 1959 and concurred in the said motion on the 1st September, 1959.

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 3rd September, 1959.

5. The Committee held four sittings in all.

6. The first sitting of the Committee was held on the 10th September, 1959, to draw up a programme of work. The Committee at this sitting decided to hear evidence of associations and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to who should be called to give oral evidence before the Committee.

No evidence, however, was taken on the Bill.

7. Ten memoranda or representations on the Bill were received by the Committee from different associations and individuals.

8. The Committee considered the Bill clause by clause at their sittings held on the 4th and 5th November, 1959.

9. The Committee considered and adopted the Report on the 6th November, 1959.

*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 24th April, 1959.

10. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs

11. *Clause* 1.—The Committee consider that it is desirable to bring the Act into force simultaneously in all the States.

The clause has been amended accordingly.

12. *Clause* 2.—The Committee feel that the words "whether directly or indirectly" should be inserted after the words "or agreed to be given" in order to prevent property being indirectly given as dowry.

In the opinion of the Committee the fixing of a limit of rupees two thousand for presents, ornaments, clothes etc., made at the time of marriage to either party thereto may have the effect of legalising dowry upto that amount and encouraging the giving or taking of dowry upto that limit. This would be defeating the very object of the Act namely, to do away with the system of dowry. They, therefore, feel that item (ii) may be omitted.

The clause has been amended accordingly.

13. *Clause* 3.—The Committee consider that an offence under this clause should evoke some deterrent punishment and therefore imprisonment as well as fine should be inflicted.

The clause has been amended accordingly.

14. *Clause* 6.—The Committee feel that the words "in contravention of the provisions of this Act" are unnecessary, especially when the permissible exception for presents up to rupees two thousand has been done away with in clause 2.

The Committee further feel that the clause should be amplified so as to make it clear that where the dowry was received at the time of or after the marriage, it should be transferred to the woman within one year after the date of its receipt.

The Committee also feel that offences under this clause also should be punishable with imprisonment as well as fine.

The clause has been amended accordingly.

15. *Clause* 7.—The Committee think that it would be desirable to make a specific reference also to the court of a presidency magistrate in this clause and that presidency magistrates and magistrates of the first class should be expressly empowered to

pass sentences authorised by the Act even though they may be beyond the powers conferred on them by the Code of Criminal Procedure, 1898.

The clause has been amended accordingly.

16. *Clause* 9.—The Committee feel that rules under the Act should be made by the Central Government so that they may be laid before Parliament and may be subject to their scrutiny.

The clause has been amended accordingly.

17. *Clause* 10.—The amendments made to this clause are consequential to the amendment made in clause 1.

18. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 16th November, 1959.

RENU CHAKRAVARTTY,
Chairman,
Joint Committee.

Minutes of Dissent

I

This Bill seeks to prohibit the system of dowry which is not only a great social evil but at times proves fatal to so many innocent girls of poor families. The custom has assumed a monstrous shape. It was with this object that the Bill was introduced and referred to the Joint Committee. The Bill as has emerged from the Joint Committee still lacks to become really effective. The measures—though looking very sound, will remain mere pious wishes unless given effect to. To give effect to the measures, the provision as laid down is too meagre and unattractive of any action. Under Section 7 of the Bill no Court will take cognizance without a complaint. It means that there must be a third party so interested in social reforms that he or she may spend both his or her valuable time and money in litigation to secure conviction. Unless a third party comes in, there will be no case and no punishment. As the parties concerned both—the taker and giver of the dowry, have been made equally liable to punishment, none of them will either refer a complaint or ever will be ready to come forward, to give evidence. For obvious reasons it could not be made cognizable, but Section 190 of the Criminal Procedure Code could easily be extended, wherein a magistrate is authorised to take cognizance of offences *suo motu,* or on an information received. This has not been done. So the cases of dowry will go unpunished. Then to make it a really living and effective law there should be some special provision to affect the Government Officials and Members of elective bodies. In Hindu Code the bigamous marriage has been declared void and punishable under Section 494 of the Indian Penal Code. But because of Section 198 of Criminal Procedure Code this salutary provision is becoming useless. But so far as the Government servants are concerned, it seems to have some positive effect. Government servant, possibly, if found marrying a second wife in the life-time of his first one, is liable to termination of his service. The fear of termination of service has really brought a deterrent effect on Government employees and it is here that this part of the Hindu Code is proving effective. Some such provision should be given a place either in the Bill itself or through Government notification. But there is no such provision. In my opinion, this is very much essential. I am only sorry to add that the Joint Committee did not adopt an amendment to this effect or declare such offences as involving moral turpitude.

In view of the above facts, while subscribing to the Bill as emanating from the Joint Committee, I retain my right of moving amendments in the House.

NEW DELHI; SINHASAN SINGH
The 6th November, 1959.

II

The Committee has deleted lines 18—21 on page 1, *i.e.*, clause 2 (ii) of the Bill which reads as follows:—

"Any presents made at the time of the marriage to either party to the marriage in the form of ornaments, clothes and other articles not exceeding two thousand rupees in value in the aggregate". In effect the Bill now completely bans the payment of dowry. It appears to me that this is an impractical thing. Social customs having almost the sanction of religious belief permit "Kanya Dan" along with presents in cash, ornaments and clothes by the parents or guardian of the bride. Such payment is considered as auspicious and desirable on the occasion of marriage. Every caste in every State has the custom of giving such presents called "Dahej" or "Tilak" differing only in form and value. Non-payment of any "Dahej" or dowry would be generally considered as inauspicious. In fact the poorest wants to and will in practice pay some "Dahej", however little, in the form of ornaments and clothes. All previous Acts (Andhra, Bihar, Kerala) make provision for payment of some reasonable "Dahej" like the provisions made in the original Central Bill. The evil is not in the payment of "Dahej", which is the most natural thing in almost all countries of the world, but in commercialising it so as to make it excessive and exacting. The remedy lies not in banning dowry, which will be like going from one extreme to another, but in fixing a reasonable maximum, as the original Bill did. Utter ban will result in reducing the Bill to a big joke, which no party will take seriously. Social evils of a wide-spread and deep-rooted nature, having a religious background, cannot be abolished by the ukase of any legislature.

On page 2, line 3 (clause 3) the Bill as amended substitutes "and also" for "or". The result is that the penalty for giving and taking dowry will be "imprisonment which may extend to six months and also with fine which may extend to five thousand rupees". The amendment intends to inflict a "deterrent" punishment by insisting on imprisonment. Deterrent punishments should be reserved for

grave offences involving moral turpitude subverting social life. Dowry is given and taken by almost all classes of persons without any feeling of committing any "crime" or "grave offence". In fact the "giver" of today becomes the "taker" of tomorrow. All are in the grip of an evil social custom which they would like to remove but do not know the way. They are not "criminals" but weak, thoughtless and somewhat greedy persons following an ancient custom. They deserve pity and not condemnation. On the other hand, does anyone expect that the parents or guardian of a bride will ever file a complaint against the bridegroom or his parents, which may result in their imprisonment? No amount of exaction of dowry will compel the bitterest father or guardian to shatter the domestic happiness of the bride, future family. In fact in all states where Dowry Acts operate there are hardly any cases of punishment by imprisonment. The amendment of clause 3 will be widely resented as unnatural and disruptive. The course of social legislation of this kind should be educative and evolutionary but not revengeful. The modern trend of criminology is to treat crime as a social disease to be cured not "punished" and repressed. In this case the emphasis should be on fine and on public disgrace and not on imprisonment as if of felons. Impatience and anger, however virtuous, in social legislation does not lead to social reform but to social hypocrisy and flouting of law. I also suggest that the "giver" of dowry should not be punished like the "taker". The giver gives under duress and social compulsions, often of his own daugther, the would-be bride. He is also to be the chief complainant in any case filed under this Act. Custom compels him to pay and now law punishes him if he complains. The law appears to me as more harsh than the custom and will, therefore, remain in abeyance while the custom will prevail.

NEW DELHI; N. R. MALKANI

The 6th November, 1959.

III

We do not agree with the amendment to clauses 3 and 6 seeking penalty of both imprisonment and fine to the offenders under this Act. To us the original clauses were alright. Originally, the penalty proposed was imprisonment or fine or both. This left the choice to the magistrate, who could award the punishment with due consideration of the nature, extent and seriousness of the offence committed. If the offence was so serious as to deserve punishment both with imprisonment and fine, the magistrate could do so. But after the amendment now the magistrate has no other alternative but to send the offender to prison as well as fine him whatever the nature of the case may

be. We consider this to be a serious issue which ought to have been given due consideration. It will be in the fitness of things if the House rejects the amended clauses and allows the original clauses in their places.

NEW DEIHI;
The 6th November, 1959.

BALKRISHNA WASNIK
NIBARAN CHANDRA LASKAR
ONKAR LAL

IV

In general we agree with the bill as amended in the Joint Committee. In clause 2 we would have liked the definition of "Dowry" to clearly cover cases where gold ornaments and money are given to daughter but in fact are given in pursuance of a demand by the bridegroom's father or relations in consideration of marriage and are in fact a very prevalent form in which dowry is demanded. We are not absolutely sure whether the words "direct or indirect" added in the clause by the Joint Committee cover these cases of dowry and would, therefore, have liked the clause to be redrafted to read:—

> In this Act "dowry" means any property or valuable security given or agreed to be given by the parents or guardians of the bride or groom or any other person on their behalf either to the bride or groom or to his parents, guardians or to any other person on their behalf either at the marriage or before or after the marriage as consideration for betrothal or marriage of the said parties.

NEW DELHI;
The 7th November, 1959.

ABDUR REZZAK KHAN
P. T. PUNNOOSE

V

If proclamation before the modern world was necessary that we are out to pass progressive social legislation, we have been able to prove by passing Untouchability Offence Act, Suppression of Immoral Traffic Act and other acts of similar nature and in addition to it by passing this law, that we are advancing with rapid strides much beyond expectation and anticipation. But if asked with what tangible result, in that case we can only say that by passing this law, we can achieve the success of adding another more dead law in this overlegislated age.

What is the use of this law, if the State does not want to take the responsibility? How the State thinks that its duty is ended with the passing of this law and the people will rush to the court with the selfless motive only for reforming the society by spending money from their own pockets and by standing the harassment of a litigation?

The life line of this law is the definition of the word 'Dowry'. My definite opinion is that the whole Act has been made infructuous by incorporation of the word 'Consideration' in clause 2. If the father of the bride openly pays ten thousand rupees to the bridegroom in the place itself where the marriage is being celebrated and declares that he is paying it as a token of love, who in this world is going to prove that it is not so but consideration, unless some sort of responsibility is thrown on the donor analogous to that as contemplated in sec. 105 and 106 of the Indian Evidence Act, though not strictly throwing the onus on him.

Another instance may be taken which is prevalent in our state—West Bengal. For sending the bridegroom to the foreign lands a pretty big amount of money is deposited by the bride's father in the bank just before or after the marriage as a part of the dowry, who is going to prove that it is consideration?

In order to make this law effective, the offence should be made cognisable and the investigation should be entrusted in the hands of the police not below the rank of the Deputy Superintendent with some safeguard and limitations so that the mirth and happiness of the occasion may not be marred. Unless that is done it will only enhance the beauty of the Statute Book. There may be some apprehension of police excess, even then we should bear it to cure a deeprooted malady which is corroding the vitals of the society.

It has been said that police strength is not sufficient as to take cognisance of large number of cases. It is not that in every marriage, the offence is committed and moreover the cognisance can be taken within a year. Further to put down the social evil, if it is necessary the police strength be increased for the purpose.

Another logic, I have not been able to follow. The case is made non-cognisable but at the same time non-compoundable. It should be made compoundable with the permission of court. No reason to insist on the pound of flesh.

Clause 6—The party intended to be benefited has been deprived of the longer period.

This Bill initially raised high hopes in the minds of the people and it is no wonder that hundreds of congratulatory letters will be received. But I am afraid that the people will be disillusioned after the passing of the Bill in the present form and this law will only prove elective despotism, if no attempt is made to make it effective.

NEW DELHI; SUBIMAN GHOSE

The 17th November, 1959.

VI

I regret I cannot agree for the deletion of sub-clause (ii) of clause 2 of the Bill, which permits presents and gifts being made to the extent of Rs. 2,000/-.

It is usual for the parents to give presents to their sons or daughters or to the sons-in-law, out of love and affection. In some cases making presents is part of the marriage rites. Some latitude must be allowed and to cover such *bonafide* cases, provision was made permitting presents upto Rs. 2,000/. The entire deletion of this clause prevents any present being made as it may be construed as a dowry and will lead to harassment. Some provision has to be made to cover such cases and I am of opinion that sub-clause (ii) of clause 2 may be retained and the amount provided therein may be reduced to Rs. 1,000/-.

I am also against the change in clause 3 which provides for compulsory imprisonment in all cases. This is after all a social evil and some times parents act out of compulsion. A difference also has to be made between the giver of the dowry and the receiver of the dowry. While the former acts under compulsion and desperation the latter is guided by lust and spirit of black-mailing. It is best to leave the quantum of punishment to the discretion of the magistrate. So the original clause making imprisonment optional may be retained.

NEW DELHI; J. M. MOHAMED IMAM
The 17th November, 1959.

VII

While I agree with the changes suggested by the Joint Committee, I feel that clause 8 should be suitably amended so that the offences under this Act should be made cognisable. To guard against harassment by petty officials, it may be mentioned that no officer below the rank of a Deputy Superintendent of Police shall be empowered to act.

It is true that legislation by itself cannot be effective in regard to the prohibition of dowry and what is required is a change in the social conscience. At the same time, since legislation is being enacted, efforts should be made to make it as effective as possible. He is well known that the Child Marriage Restraint Act has not proved an effective measure. One of the major reasons for this is that the offences under that Act are not cognisable. If under the Dowry Prohibition Bill, the same flaw exists, then its effectiveness would be further whittled down.

NEW DELHI; RENUKA RAY
The 17*th November*, 1959.

VIII

Amongst the present social evils 'the Dowry' presents a formidable challenge since it has taken firm roots in the society at various levels. This Dowry system has become most oppressive and even ruinous to either of the parties to the marriage. Marriages apart from losing their sanctity have become commercial transactions. Exhorbitant and arbitrary demands by way of dowry have brought untold miseries in various sections of society whether educated or not disturbing peaceful family life and domestic harmony. No body in the land can support the Dowry system or its continuance. But this social evil like many others can be eradicated better by channelising public opinion in proper form by social workers. Legislative measure, though long awaited, can hardly and effectively wipe out this social evil. The present Bill being a legislative step to eradicate the social evil is welcome one. But the form in which it has emerged from the Joint Select Committee compels me to submit this minute of dissent.

The definition of dowry has undergone some change in the Joint Committee. The addition of the words "directly or indirectly" after the words 'to be given' is quite appropriate but with the omission of the presents mentioned in (2) (ii), the difficulties would arise. The present definition would cover the presents given by the parents at the time of marriage and might expose them to prosecution by anybody. The fear that presents upto certain limit might indirectly 'legalise' dowry to that limit can be well appreciated but the removal of proviso would bring forward malicious prosecutions as well. I think the original definition was a better one though the amount of two thousand mentioned therein may be suitably changed.

Retention of clause 3 in the present form to my opinion will nullify the whole purpose of the Bill. Nobody wants to give dowry 'voluntarily'. It is under compelling circumstances that a man parts with the amount of dowry. But if the 'giver' is to become an offender then no body would come forward to tender evidence for proving the consideration for marriage etc. There will hardly be any complaints if the 'giver' himself is to be punished. It is unthinkable that some 'third' persons would come forward and present 'complaints' at their own costs. Moreover the prosecutions in which both the parties to 'giving and taking' of dowry are in the docks were bound to fail since 'consideration' will never be proved. To add more the deterrent punishment in the clause will have the effect of not having recourse to law at all. Deterrent punishment certainly does have a salutory effect on the society, but punishment of this kind in offences

like dowry wherein both the parties are to be hauled up, will necessary have the result in the other direction, *viz.*, of "hushing up everything". 3 months imprisonment or fine might suit the purpose well. Punishments for other offences in the Bill also deserve to be changed in this context.

NEW DELHI; UTTAMRAO L. PATIL

The 17th November, 1959.

Bill No. 33B of 1959

THE DOWRY PROHIBITION BILL, 1959

(AS REPORTED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to prohibit the giving or taking of dowry.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Dowry Prohibition Act, 1959.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. * * *

Definition of "dowry".

2. In this Act, "dowry" means any property or valuable security given or agreed to be given, whether directly or indirectly, to one party to a marriage or to any other person on behalf of such party by the other party to the marriage or by any other person on behalf of such other party, either at the marriage or before or after the marriage, as consideration for the betrothal or marriage of the said parties, but does not include* dower or *mahr* in the case of persons to whom the Muslim Personal Law (*Shariat*) applies*.

* * * * *

Explanation.—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code. 45 of 1860.

Penalty for giving or taking dowry.

3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, and also with fine which may extend to five thousand rupees. * *

Penalty for demanding dowry.

4. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Agreement for giving or taking dowry to be void.

5. Any agreement for the giving or taking of dowry shall be void.

Dowry to be for the benefit of the wife or her heirs.

6. (*1*) Where * * * any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman—* * *

(*a*) if the dowry was received before marriage, within one year after the date of marriage; or

(*b*) if the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(*c*) if the dowry was received when the woman was a minor within one year after she has attained the age of eighteen years

and pending such transfer, shall hold it in trust for the benefit of the woman.

(*2*) If any person fails to transfer any property as required by sub-section (*1*) and within the time limited therefor, he shall be punishable with imprisonment which may extend to six months, and also with fine which may extend to five thousand rupees; * * * but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (*1*).

(*3*) Where the woman entitled to any property under sub-section (*1*) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(*4*) Nothing contained in this section shall affect the provisions of section 3 or section 4.

Cognizance of offences.

5 of 1898.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

(*a*) no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence * * * under this Act;

(b) no court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(c) it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

Offences to be non-cognizable, bailable and non-compoundable.

8. Every offence under this Act shall be non-cognizable, bailable and non-compoundable.

Power to make rules.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeals.

10. * * * The Andhra Pradesh Dowry Prohibition Act, 1958, * * and the Bihar Dowry Restraint Act, 1950, are hereby repealed.

Andhra Pradesh Act 1 of 1958.
Bihar Act 25 of 1950.

M. N. KAUL,
Secretary.

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